

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

04 OCT -8 P4:01

In the Matter of the Application of)
THE PROCTER & GAMBLE COMPANY,)
Petitioner, For an Order Pursuant to 28 U.S.C)
§ 1782 to Take Discovery, Pursuant to the Federal) Case No. 04-MC-46
Rules of Civil Procedure, of Respondents)
Kimberly-Clark Corporation, Kimberly-Clark) Honorable Lynn Adelman
Worldwide, Inc., Paul T. Van Gompel, Jody D.)
Suprise, Robert J. Schleinz, Leona G. Boland,)
Georgia L. Zehner, and Thomas J. Mielke)

SEVENTH CIRCUIT RULE 3(c) DOCKETING STATEMENT

Pursuant to Seventh Circuit Rule 3(c), respondents-appellants Kimberly-Clark Corporation, Kimberly-Clark Worldwide, Inc., Paul T. Van Gompel, Jody D. Suprise, Robert J. Schleinz, Georgia L. Zehner, and Thomas J. Mielke hereby submit the following Docketing Statement.

A. Appellants' Jurisdictional Statement

1. The district court had jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 1331 and 1782. This proceeding was brought by petitioner The Procter & Gamble Company, an Ohio corporation with its principal place of business in Ohio, to obtain discovery from respondents pursuant to 28 U.S.C. § 1782 for use in foreign judicial proceedings. Respondents Kimberly-Clark Corporation and Kimberly-Clark Worldwide, Inc., are Delaware corporations with their principal places of business in Texas. Respondents Van Gompel, Suprise, Schleinz, Zehner, and Mielke are citizens of Wisconsin.

2. The United States Court of Appeals for the Seventh Circuit has appellate jurisdiction in this matter pursuant to 28 U.S.C. § 1291. The district court's judgment

directing Kimberly-Clark to provide discovery under 28 U.S.C. § 1782, as reflected in its orders dated September 1 and 13 and October 8, 2004, is a final and appealable order that adjudicated all claims as to all parties. *See Kestrel Coal Pty., Ltd. v. Joy Global Inc.*, 362 F.3d 401, 403 (7th Cir. 2004).

3. The Notice of Appeal is being filed simultaneously with this Docketing Statement on October 8, 2004, which is within thirty days from entry of the district court's final order. In addition, on September 29, 2004, the district court granted Kimberly-Clark an extension of time, to October 30, 2004, to file its Notice of Appeal, pursuant to Fed. R. App. P. 4(a)(5).¹ This appeal is therefore timely. Fed. R. App. P. 4(a)(1)(A).

B. Counsel of Record

Constantine L. Trela, Jr. of Sidley Austin Brown & Wood LLP, 10 South Dearborn Street, Chicago, IL 60603 shall be counsel of record for the respondents-appellants in this appeal.

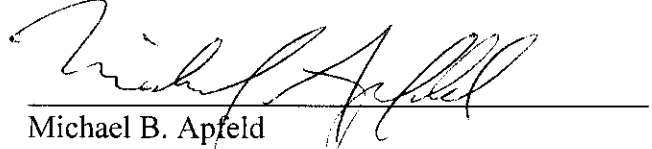
C. Related Matters

There are no matters pending in the federal or state courts of the United States which are related to this case. There are proceedings pending in the courts of the United

¹ Kimberly-Clark sought the extension of time to avoid any confusion as to whether the district court's September 1, 2004 order, standing alone, was a final order.

Kingdom, France, Germany, the Netherlands, and Japan which are related to this case in that petitioner seeks discovery in this country for use in those proceedings.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael B. Apfeld", is written over a horizontal line.

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Mielke

CERTIFICATE OF SERVICE

I hereby certify that two copies of the foregoing Seventh Circuit Rule 3(c) Docketing Statement were served upon counsel for The Procter & Gamble Company by delivering said copies to a commercial overnight delivery service on October 8, 2004, with instructions for delivery on the next business day to:

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